

Office of the Secretary  
Federal Communications Commission  
1919 M Street NW, Room 222  
Washington, DC 20554

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November 9, 1993

**RE: COMMENTS, NRPM PP DOCKET 93-253**

Dear Secretary:

Enclosed are one original and nine copies of the comments of Western Wireless, Inc. in re. NRPM PP Docket 93-253.

Please do not hesitate to call me at 206-458-2171 if there are any questions.

Thank you.

  
Tom Gorman  
Secretary, Western Wireless, Inc.

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In the matter of )  
Implementation of Section 309(j) ) PP Docket  
of the Communications Act ) No. 93-253  
Competitive Bidding )

**COMMENTS OF  
WESTERN WIRELESS INC.**

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**I. Qualification of Designated Entities**

1. We support raising the size limit for rural telephone companies to 10,000 population per area, but we would recommend increasing the limit to 20,000. This will allow a number of well qualified rural telephone companies to offer PCS in their service areas.

**II. Size of licensing areas**

With its decision to award licenses based on Major and Basic Trading Areas, the FCC has created a significant disincentive to the participation of designated entities ("DE") because the financial requirements for licensing and building a PCS system even in the smaller BTA are likely to exceed the financial resources of most, if not all, DEs.

We suggest that in order to mitigate the impact of its licensing policies on DEs, the FCC adopt the following procedures:

1. Group combinatorial bidding for C and D channel blocks should NOT be allowed. Combinatorial bidding for all BTAs within each MTA would create strong disincentives for smaller DEs to participate in the bidding.

**2. Credits for DE ownership participation should be awarded to all non-DE bidders.**

A bidder for A or B channel blocks should receive a credit equal to 50% of the percentage ownership of that entity by DEs, up to 10% credit.

For example, Consortium Z and Company Q are both bidders on the A channel block. Consortium Z is owned 25% by DEs and bids \$ 950,000. Company Q does not have any DE ownership and bids \$ 1,000,000. Consortium Z would win the license because its bid would be the equivalent of \$ 1,045,000 (\$ 950,000 for the bid, plus \$ 95,000 for 50% of 25%, capped at 10%).

**3. DEs should be allowed to obtain sub-licensing from primary licensees for areas with a population of less than 5,000 ("DE areas") at a price equal to the price paid by the primary licensee.**

This provision is designed to correct, at least in part, the problem posed by the very large size of the license areas, which stifles participation by DEs with limited financial resources. It would allow DEs to select niche areas to offer PCS, and to do so in a manner which would not materially impair the operations of the primary licensee nor reduce the flow of license revenues to the Treasury.

The DEs should be allowed to submit applications for DE areas within ten days after the license for the larger area has been awarded to the primary licensee. The application shall define a) the geographic area to be covered by the sub-license; b) the number of population covered by the sub-license; c) the status of the applicant as a bona-fide DE. Payment for the sub-license shall be made to the primary licensee in a lump sum within ten days after the primary licensee has effected the payment for its license.

In case of competing DE applicants for sub-licenses to the same geographic area, the FCC shall give preference to the telco serving the sub-license area. If the telco serving the sublicense area is not among the applicants, the FCC shall determine the winning DE applicant by lottery during the period between the ten days after the primary license has been awarded and the day payment is due from the primary licensee.

### III. Payment method

We support the FCC's proposal to allow all DEs to pay for the bid amount in installments, with interest at prime plus 1% determined at the date the bid is accepted.

We propose the following additions to the FCC's proposal:

1. the period for payment should equal the term of the license.  
(i.e., ten years).
2. All non-DE bidders who include DE among their equity participants should be allowed to pay in installments a percentage of their bid amount equal to 100% of their DE ownership. For example, Company X bids \$ 1,000,000 and is owned 25% by small rural telcos. Company X would be allowed to pay in installments 25% of the price.

### IV. Safeguards

We are most concerned about instituting safeguards which insure the fair treatment of bona fide DEs, while promoting the integrity of the preferential system.

The FCC should adopt the following procedures:

1. Defaults.  
In the case of defaults in the payment of license fees by DE licensees, the FCC should allow a ninety days grace period and then re-auction the license. Only DEs should be allowed to bid.
2. Transfers  
There should be no limitations concerning the transfer of ownership from one DE to another or to a non-DE, as long as the total percentage of DE ownership of the entity after the transfer is no less than that at the time the license was awarded.

Transfers which reduce the percentage DE ownership below that at the time the license was awarded will result in a penalty equal to


**the percentage decline in DE ownership times the benefit derived from DE ownership.**

For example, Company X has 10% DE ownership. This allowed it a) a 5 % credit (see \_\_\_\_3 above) in the bid price; and b) 10% of the bid amount to be paid in installments. Now there is a change in the ownership of Company X, so that minority-women ownership declines to 5% (50% decrease). At the time the transfer of ownership is made, only 3% of the 10% principal amount to be paid in installments has been paid. Company X shall pay an amount equal to 2.5% of the bid price ( $.5 \times 50\%$ ), plus 3.5% of the bid price ( $50\% \times (10\% - 3\%)$ ).

**V. Western Wireless, Inc.**

Western Wireless, Inc. is a consortium of independent telephone companies incorporated in the state of Oregon. The corporate mission is to promote PCS services in rural and semi-rural areas. Most of the stockholders of Western Wireless hold experimental licenses.

Respectfully submitted,



Tom Gorman  
Secretary, Western Wireless, Inc.